



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 925 and 944

[Doc. No. AMS-SC-16-0009; SC16-925-2]

**Grapes Grown in Designated Area of Southeastern California
and Imported Table Grapes; Removing Varietal Exemptions;
Withdrawal**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Withdrawal of proposed rule.

SUMMARY: The U.S. Department of Agriculture withdraws a proposed rule recommended by the California Desert Grape Administrative Committee (Committee) to remove varietal exemptions from the California table grape marketing order and the table grape import regulation as well as to remove administrative exemptions previously granted for certain varieties of imported grapes. After reviewing and considering the comments received, the proposed rule is being withdrawn.

DATES: As of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, the proposed rule published on June 23, 2017, at 82 FR 28589, is withdrawn.

FOR FURTHER INFORMATION CONTACT: Maria Stobbe, Marketing Specialist, or Terry Vawter, Senior Marketing Specialist,

California Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487-5901, Fax: (559) 487-5906, or Email: Maria.Stobbe@ams.usda.gov or Terry.Vawter@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This withdrawal is issued under Marketing Order No. 925, as amended (7 CFR part 925), regulating the handling of grapes grown in a designated area of southeastern California. Part 925 (referred to as the "Order") is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred as the "Act." The Committee locally administers the Order and is comprised of producers of California table grapes grown in a designated area of southeastern California, and a public member.

This withdrawal is also issued under section 8e of the Act, which provides that whenever certain specific commodities, including table grapes, are regulated under a Federal marketing order, imports of those commodities into the United States are prohibited unless they meet the same or comparable quality, grade, size, and maturity requirements as those in effect for the domestically produced commodity.

This action withdraws a proposed rule published in the *Federal Register* on June 23, 2017, (82 FR 28589) to remove varietal exemptions from the Order and import regulation as well as to remove administrative exemptions from the import regulation. Specifically, the proposed rule would have removed existing varietal exemptions (Emperor, Calmeria, Almeria, and Ribier) from the Order. As a result, all table grapes, regardless of variety, grown in the production area during the regulatory period (April 10 through July 10 each year) would have been subject to grade, size, quality, maturity, pack, and container requirements of the Order and would have been subject to inspection and certification requirements.

Additionally, the proposed rule would have removed the same varietal exemptions from the import regulation. Accordingly, all table grapes imported into the United States during the regulatory period would have been subject to grade, size, quality, and maturity regulations specified in the import regulation and would have been subject to inspection and certification requirements.

In conjunction with these changes, the proposed rule would have removed administrative exemptions from the import regulation for sixteen imported varieties (Italia

Pirovano [Blanca Italia], Christmas Rose, Muscatel, Barlinka, Dauphine, Kyoho, Waltham Cross, Alphonse Lavallee, Bien Donne, Bonnoir [Bonheur], La Rochelle, Queen, Rouge, Sonita, Tokay, and Red Globe).

During the proposed rule's 60-day comment period, fifteen comments were received. All the comments may be viewed on the internet at <http://www.regulations.gov>. Of the fifteen comments received, one was in support, thirteen were opposed, and one did not pertain to the issue raised in the proposed rule. The supportive comment was from a California table grape industry association and was in favor of the proposed changes. Each of the thirteen opposing commenters represented an entity involved in the importation or marketing of imported table grapes: six were from distributors of imported grapes based in Delaware, Pennsylvania, New Jersey, and California; two represented shipping ports; three represented trade associations; one was from an exporters' association; and one was from a foreign embassy.

The opposing comments noted that the changes would result in job losses as well as a substantive increase in burden and costs to shippers and exporters in handling and storage costs, without adding quality benefits. The

commenters stated that this could lead to reduced efficiency and vitality of export operations. Commenters also stated inspection delays and associated costs are not warranted because imported grapes do not compete on a seeded vs seedless basis. Another commenter noted that the changes would represent a major barrier to trade by eliminating exemptions, thereby restricting the flow of table grapes to market, causing economic harm to the shipper and possibly the consumer of table grapes.

Some commenters stated that the proposed rule did not contain quantifiable data that demonstrated support for the removal of all grape varietal exemptions from the Order and that no evidence supported eliminating previously exempted varieties shipped and sold prior to the first availability of the same comparable domestic varieties. In addition, they stated that imported grapes have not been shown to impact prices on any of the domestically produced exempted varieties.

Commenters also contended that the proposed changes are not supported by law or data and that it is not appropriate to deviate from the long-standing agency determination to exempt varieties not domestically produced.

After reviewing and considering the comments received, the Agricultural Marketing Service (AMS) has determined that the proposed rule to remove varietal exemptions from the Order and the table grape import regulation should not be finalized. AMS intends to conduct outreach with the California table grape industry stakeholders and consider whether changes will be proposed in the future. Accordingly, the proposed rule to remove varietal exemptions from the Order and import regulation published in the *Federal Register* on June 23, 2017, (82 FR 28589) is hereby withdrawn.

List of Subjects in 7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 601-674.

List of Subjects in 7 CFR Part 944

Avocados, Food grades and standards, Grapefruit,
Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

Authority: 7 U.S.C. 601-674.

Dated: October 21, 2019

Bruce Summers,

Administrator,

Agricultural Marketing Service.

BILLING CODE 3410-02 P

[FR Doc. 2019-23236 Filed: 10/24/2019 8:45 am; Publication Date: 10/25/2019]